

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE JULY 22, 2003

AMENDED IN ASSEMBLY MAY 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1020

Introduced by Assembly Member Laird

February 20, 2003

An act to add Section 116747 to the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1020, as amended, Laird. Public water systems: civil actions: contaminants.

Existing law, the California Safe Drinking Water Act, requires the State Department of Health Services to administer provisions relating to the regulation of drinking water and public water systems. The department is required to adopt regulations with respect to monitoring contaminants.

This bill would authorize a public water system to bring a civil action against a person, except as specified, responsible for the presence of a contaminant in surface water or groundwater supplies utilized by the public water system for drinking water purposes, for designated costs to the public water system associated with the investigation, remediation, filtration, or treatment of water containing that contaminant.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 116747 is added to the Health and Safety Code, to read:

116747. (a) A public water system may bring a civil action against a person responsible for the presence of any contaminant in surface water or groundwater supplies utilized by the public water system for drinking water purposes, for the cost to the public water system associated with the investigation, remediation, filtration, or treatment of water containing that contaminant.

(b) The amount of the costs that are recoverable under subdivision (a) shall include, in addition to any other relief available in law or equity, all of the following:

(1) The reasonable costs of investigating the nature and extent of the contamination, and of investigating appropriate measures, including filtration or other forms of drinking water treatment, to prevent entry into the public water distribution system of the contaminant.

(2) The reasonable costs of designing, constructing, installing, operating, and maintaining any facilities, including, but not limited to, filtration or other forms of drinking water treatment, necessary to prevent the entry into the public water distribution system of the contaminant, including administration and overhead costs.

(3) Replacement water costs.

(4) Interest on the costs described in paragraphs (1), (2), and (3), accrued from the date of expenditure. Interest shall be based on the average annual rate of return on the public water system's investment of surplus funds for the fiscal year in which costs were incurred.

(5) Reasonable attorney's fees and court costs.

(c) (1) Notwithstanding any other provision of law, a public water system shall have four years, from the date it reasonably undertakes a response action to prevent entry of a contaminant into the public water distribution system, in which to file a civil action to recover costs incurred in the response action, as described in subdivision (b).

(2) In addition to the costs recoverable pursuant to paragraph (1), a public water system may recover any costs incurred in an earlier investigation of a potential future contamination of its

1 water distribution system that resulted in the contamination for
2 which the response action was taken.

3 (d) Any damages awarded pursuant to subdivision (b) are in
4 addition to, and are not a restriction upon, the awarding of other
5 damages available under any other cause of action available to a
6 public water system.

7 (e) For purposes of this section, “person” does not include any
8 of the following:

9 ~~(1) A city, county, district, or other local agency, or a~~
10 ~~department or agency thereof, to the extent that it is operating a~~
11 ~~facility for the production, storage, treatment, or transmission of~~
12 ~~water, wastewater, or stormwater, if the city, county, district, or~~
13 ~~other local agency, or a department or agency thereof, holds, and~~
14 ~~is in compliance with, a permit for this activity issued by the State~~
15 ~~Water Resources Control Board or a regional water control board.~~

16 ~~(2) A city, county, district, or other local agency, or a~~
17 ~~department or agency thereof, to the extent that it is discharging~~
18 ~~wastewater, recycled water, or stormwater, if the city, county,~~
19 ~~district, or other local agency, or a department or agency thereof,~~
20 ~~holds, and is in compliance with, a discharge permit issued by the~~
21 ~~State Water Resources Control Board or a regional water quality~~
22 ~~control board.~~

23 ~~(3) A city, county, district, or other local agency, or a~~
24 ~~department or agency thereof, or any customer thereof, to the~~
25 ~~extent that it is using recycled water, if the city, county, district, or~~
26 ~~other local agency, or a department, agency, or customer thereof,~~
27 ~~holds, and is in compliance with, a discharge, reclamation, or user~~
28 ~~permit issued by the State Water Resources Control Board or a~~
29 ~~regional water quality control board.~~

30 *(1) A state agency, city, county, district, or other local agency,*
31 *or a department or agency thereof, or a privately owned public*
32 *water system, that is operating a facility for the production,*
33 *storage, treatment, or transmission of water, wastewater, or*
34 *stormwater, except to the extent the contamination was caused by*
35 *a violation of a limitation contained in any permit or order for this*
36 *activity required by law.*

37 *(2) A state agency, city, county, district, or other local agency,*
38 *or a department or agency thereof, or a privately owned public*
39 *water system, that is discharging wastewater, recycled water, or*
40 *stormwater if the state agency, city, county, district, or other local*

1 agency, or a department or agency thereof, or the privately owned
2 public water system holds a discharge permit or order issued by the
3 State Water Resources Control Board or a regional water quality
4 control board, except to the extent that a violation of an effluent
5 limit in the permit or order caused the contamination.

6 (3) A state agency, city, county, district, or other local agency,
7 or a department or agency thereof, or a privately owned public
8 water system, that is using recycled water if the state agency, city,
9 county, district, or other local agency, or a department, or agency,
10 or customer thereof, or the privately owned public water system
11 holds a discharge, reclamation, or user permit issued by the State
12 Water Resources Control Board or a regional water quality control
13 board, except to the extent that a violation of the permit caused the
14 contamination.

15 (f) A customer using recycled water supplied by a state agency,
16 city, county, district, or other local agency, or department or
17 agency thereof, or a privately owned public water system, pursuant
18 to a user permit issued by the State Water Resources Control Board
19 or a regional water quality control board, shall not be liable under
20 this section for recycled water use, except to the extent that a
21 violation of the permit caused the contamination.

